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Department of Ecology
Water Quality Program
SEP 30 2004

Bill Moore
Industrial Stormwater General Permit
Washington Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600

Subject: Proposed Revisions to the Industrial Stormwater General NPDES Permit

Dear Mr. Moore:

The Weyerhaeuser Company's comments on the draft Industrial Stormwater General NPDES Permit (hereafter, the "IGSWP") are presented in this letter.

General Comments

1. Ecology's Water Quality Program should be commended for its leadership and effort in producing this draft permit. Accommodating appeal settlement and litigation outcomes, and then legislation directives, has surely been a formidable task. The willingness of the Program to engage key stakeholder groups in discussion through this process has been much appreciated.

2. The proposed permit revisions add many detailed requirements. As proposed, this would be an extremely challenging permit for IGSW permittees to understand and comply with. Ecology should critically examine this permit and make efforts to reduce and simplify permit terms and conditions. Our specific comments identify several new requirements which will have little (if any) practical value in managing stormwater discharges. Following permit issuance, Ecology provision of training workshops and field technical assistance will be important for effective permit implementation.

3. The proposed permit revision solidifies the role of Benchmark Values as the implied indication of BMP adequacy and as the trigger for the adaptive management process. This would be fine if the Benchmark Values were shown to have good correlation with 1) the performance of appropriate and applicable BMPs, and 2) actual receiving water quality standards non-attainment.

On the first point, we suggest the BOD and Turbidity Benchmark Values may not be appropriate for forest products facilities. Six quarters of monitoring data have indicated consistent difficulty in achieving these values. We note the origin of the ISWGP 30 mg/l BOD benchmark is apparently EPA's *Multi-Sector General Permit for Storm Water Discharges Associated With Industrial Activities* (65 FR 64746-64862, October 30, 2000). At 65 FR 64767, EPA identifies the BOD Benchmark Value derives from "Secondary Treatment Regulations – 40 CFR 133." Secondary treatment of stormwaters is not a reasonable expectation for forest products facilities. There is no indication where the 25 NTU Turbidity Benchmark Value is sourced from. The Multi-Sector Permit does identify "Sector-Specific Numeric Limitations and Benchmark Monitoring" values. At 65 FR 64820, those Benchmark Values for forest products facilities include 120 mg/l COD and 100 mg/l TSS as the indicators of organics and solids control. We are aware that Ecology sponsored a special sampling study of forest products facility stormwaters during the winter 2003 – spring 2004. Following issuance of the final report on that work it will probably be appropriate, and we would hope the agency is willing, to review Benchmarks and BMPs.

On the second point, please review our Specific Comment #10.

Specific Comments on the Proposed Permit Revisions

(4)

1. S3.C. - Conditionally Approved Non-Stormwater Discharges -- **The IGSWP should mimic EPA's provisions for allowable non-stormwater discharges as presented in their Multi-Sector Permit. Acceptance of EPA's regulatory approach will have no material effect on stormwater discharge quality, but will provide some small relief to stormwater permittees.**

   Discussion – The proposed language in S3.C. originated from settlement negotiations on a permit appeal issue raised by Boeing and Snohomish County. Ecology has obviously agreed that NPDES authorization for this class of discharges is appropriate. What seems inexplicable is that the IGSWP should deviate at all from EPA's approach in the Multi-Sector Permit. Some non-stormwater sources have been excluded. This sends the message that Ecology expects to accommodate an individual NPDES permitting process should these discharges need to occur. The proposed IGSWP language has added requirements to "Characterize the non-stormwater source, including estimated flows or flow volume..." (C.2.b.), and to force an evaluation to "...reduce or eliminate the discharge" (C.2.d.).

Suggested Revisions – S3.C.1. should conform to EPA's Multi-Sector Permit language (found at 65 FR 64814). There is no need for Washington to add more requirements. The required elements of the SWPPP will adequately address whatever small pollutant contribution might come from these non-stormwater discharges. Requested permit language changes include these additions to S3.C.1.:

> "Landscape watering provided all pesticides, herbicides, and fertilizers have been applied in accordance with manufacturer's instructions."
>
> "Pavement wash waters where no detergents are used and no spills of leaks of toxic or hazardous materials have occurred (unless all spilled material has been removed)."
>
> "Routine external building wash down which does not use detergents."

The requirement to de-chlorinate potable water discharged from water line flushing should be eliminated.

The extraneous evaluation requirements in S3.C.d. mentioned above should be deleted. The information demanded by these requirements has inconsequential value in the stormwater management effort.

2. S3.E. – Stormwater Discharges to Impaired Waterbodies Except 303(d) Listings for Sediment and Tissue -- **Ecology should confirm that Appendices 4 and 5 are complete such that permittees can rely upon them in fulfilling the terms and conditions of the IGSWP.**

(5)

Discussion – In its response to this comment, Ecology should verify that the Appendices 4 and 5 are complete.

3. S3.E.2. and 3. – Existing facilities which discharge either directly or indirectly via a stormwater conveyance to waters listed as impaired – **The phrase "stormwater conveyance system to <u>waters</u> listed as impaired" should be revised to clarify the intended spatial applicability. Ecology's 303(d) list development is based on "water segments."**

(6)

Discussion – In order to match the precise language used in Ecology's 303(d) list categorization process, the sentence should be rewritten to say

> "...which discharge either directly or indirectly via a stormwater conveyance system to ~~waters~~ <u>the water segment</u> listed as impaired..."

This change will help avoid misinterpretation of the applicability of this section.

4. S3.E.2. – Existing facilities discharging to water bodies for which an applicable TMDL has been completed – **There are errors in the Appendix 5 characterization of completed TMDLs and Waste Load Allocations, and their applicability to Weyerhaeuser facility IGSW permittees. A consistent shortcoming exists with Ecology's assignment of effluent limits even though the applicable TMDL did not establish WLA's for IGSW permittees.**

(7)

Discussion – Attachment 1 to this comment letter details the specific deficiencies in the proposed Appendix 5 presentation of information. In some instances the listed Weyerhaeuser facility does not discharge to the water segment(s) addressed by the TMDL being described; i.e., the discharge is not subject to the TMDL. For other stormwater discharges an effluent discharge limit is assigned where the applicable TMDL did not include a Waste Load Allocation for IGSW permittees. Retroactive assignment of a WLA creates a due process issue. The development of any new WLA's for NPDES permittees should be accomplished through a formal revision of the TMDL, submittal to EPA and approval. This approach is supported by EPA in the Multi-Sector Permit preamble. Ecology should review the discussion at 65 FR 64792, October 30, 2000.

Finally, a footnote in Appendix 5 has created some confusion. A column heading clearly indicates where the agency intends for numeric effluent limitations to apply. These numeric limitations are denoted by a "+" symbol. The footnote for the "+" says that monitoring is required and "Benchmarks apply." Is this merely Ecology's way of saying that the intended effluent limit is the Benchmark Value?

Suggested Revision – Ecology should correct the Appendix 5 table to be consistent with the Weyerhaeuser comments.

5. S3.E.3. – Appendix 4 listing of permittees and associated benchmarks and monitoring requirements – **A numeric water quality criteria for a 303(d) listed water segment has been misapplied.**

(8)

Discussion – Attachment 1 to this comment letter identifies a needed correction to a water body and dissolved oxygen criteria.

6. S3.F. – Mixing Zones – **Ecology should confirm that mixing zones authorized to IGSW permittees (consistent with the "Identification of Receiving Waterbody and Declaration of Mixing Zone" process**

(9)

identified in S3.E. in the August 2002 IGSWP) remain authorized through the term of this permit.

Discussion – In its response to this comment Ecology should verify that the status of existing authorized mixing zones has not changed.

7. S4.C. – Level Two and Level Three Responses – **The proposed requirement for a permittee to "investigate all available options of source control, ..." establishes an open-ended and unrealistic requirement.**

(10)

Discussion – The agency needs to be careful with its choice of words. The triggering of a Level Two or Level Three Response requirement to "investigate all available options" sets an enforceable expectation of a world-wide survey and technical evaluation of literally any relevant process, technique, technology, etc. As a practical matter, this investigation would need to be accomplished by a knowledgeable professional engineer or scientist or academician. The time and cost to accomplish this review is beyond the reasonable expectations for any ISWG permittee.

Suggested Revision – The agency can accomplish its objective by utilizing this permit language

> "investigation appropriate and applicable BMP options for source control, operational control and stormwater treatment as identified in the most recent version of the Western (or Eastern) Washington Stormwater Management Manual."

8. S4.G. and G.3. – Monitoring Requirements for Facilities Discharging to 303(d) Listed Waters – **The requirement specifying monthly monitoring for these discharges is unreasonable. A quarterly monitoring frequency should be retained.**

(11)

Discussion – Ecology's Fact Sheet Addendum incorrectly portrays that settlement discussions between the appealing parties and Ecology led to an agreement for monthly monitoring. In fact, the ESSB 6415 negotiations did not yield a consensus for a more intense monitoring frequency on authorized dischargers to 303(d) listed water segments. We will note that TMDL's completed by Ecology consistently recognize that pollutant loadings from IGSW permittees have an insignificant impact on the water quality impairment. In fact, our review found no TMDL's which included WLAs for IGSW permittees. Ecology instead has chosen to either ignore these small pollutant contributions or to account for them in the Load Allocation or Margin-of-Safety components. Given this reality, it is not reasonable to impose a blanket 3-fold monitoring and cost increase on IGSW permittees.

If needed to support the development of a TMDL, additional stormwater discharge characterization data can be produced as part of a comprehensive technical study.

Suggested Revision – Retain the quarterly monitoring frequency for this class of stormwater dischargers.

9. S5.F. Public Access to Stormwater Pollution Prevention Plans – **The proposed requirement for Ecology to maintain a copy of the SWPPP needs to be clarified. It is not reasonable to require the permittee to directly supply a SWPPP to a member of the public upon request.**

(12)

Discussion – Under this revised permit, SWPPPs will be modified and new information incorporated at least quarterly and maybe monthly. It will be very unwieldy if the agency's expectation is to receive and maintain on file the most current version of the SWPPP from every permittee. The proposed permit language should be adjusted such that Ecology receives the SWPPP in effect on some date in the spring 2005, and retains an ability to request an update for any reason. Similar to all other environmental records produced by NPDES permittees, public interest in a SWPPP should be addressed through Public Disclosure Act requests to Ecology. There is no compelling reason to short-circuit this established process.

Suggested Revision – Adjust the permit language consistent with the Discussion.

10. S7. Compliance with Standards – **Ecology should acknowledge an opportunity for permittees to demonstrate compliance with water quality standards and thus avoid the adaptive management process detailed in S4.C. *Response to Monitoring Results Above Permit Benchmark Values.***

(13)

Discussion – Stormwater monitoring yielding parameter values below Benchmark Values are considered unlikely to cause a water quality violation; i.e., to not be a "significant contributor of pollutants." Yet the structure of this proposed permit implicitly assumes that pollutant values above Benchmark Values are causing water quality violations, and effectively triggers the evaluation and provision of additional BMPs. Unevaluated in this permitting scheme would be whether 1) discharges above Benchmarks really do cause water quality standards violations in the actual receiving water, and 2) the Benchmark Values are even appropriate for wood products facilities (especially for BOD, turbidity, and total zinc). Given that even a few monitored values above Benchmarks would force a permittee to make capital investments for treatment BMPs, an ability needs to be recognized in this permit for a direct evaluation of water quality standards attainment.

Ideally, specific permit language could be added to set the process expectation.

Suggested Revision – Insert this language in S7

F. A demonstration of water quality standards attainment at the point of compliance will alleviate the requirement of a permittee to satisfy S4.C. *Response to Monitoring Results Above Permit Benchmark Values*. An evaluation of water quality standards attainment will be based on information developed from implementation of a receiving water study plan approved by Ecology.

11. S7.E.2., S9. (various subsections) – "Demonstrably equivalent" definition – **The rigor of this demonstration process is probably beyond the capability of all but the most sophisticated IGSW permittee. The process should be simplified to become more realistic.**

(14)

Discussion – New and creative BMPs approaches can be expected to emerge over time. Unless Ecology routinely updates its Stormwater Management Manuals to incorporate these innovations there is the possibility that the "demonstrably equivalent" process could dampen the sharing and utilization of these (perhaps) more effective and cheaper BMPs. As presently proposed, the demonstrably equivalent process implies a full research effort to define expected performance.

Suggested Revision – Consider softening the substantive requirements for a "Demonstrably equivalent" review.

Thank you for the opportunity to offer these comments.

Sincerely,

Ken Johnson
Regulatory Affairs Manager

ATTACHMENT 1 -- Comments on Appendices 4 and 5

Appendix 5

Permit ID	Facility	Water Body	Parameters	Comment
SO3000167D	Union Gap	Yakima River	TSS, Turbidity	1. In the *Lower Yakima River Suspended Sediment and DDT TMDL* report (July 1997), no mention was made of its applicability to stormwater permittees regulated under the IGSWP. 2. The TMDL does not establish Waste Load Allocations for IGSW permittees. 3. No monitoring requirements are specified for ISWG permittees. 4. The 7 mg/l TSS limit was developed to meet the DDT chronic aquatic toxicity criterion. The Weyerhaeuser Union Gap has never used or applied DDT to the property. 5. The context of the requirement that "tributaries and drains" comply with a turbidity "target" of 25 NTU relates to solely to contributions from agricultural areas.
SO3000318D	Bay City Sortyard	Chehalis River	Dissolved oxygen	1. No TMDL has been prepared which addresses dissolved oxygen in the lower Chehalis River. The "*Revised Upper Chehalis River Basin Dissolved Oxygen Total Maximum Daily Load Submittal Report*" (March 2000) addresses inputs to the Chehalis River from river mile 33.3 to the headwaters. 2. The Weyerhaeuser Bay City Sort Yard stormwater discharge occurs below Chehalis River mile 3.

ATTACHMENT 1 (cont.) -- Comments on Appendices 4 and 5

Appendix 5

Permit ID	Facility	Water Body	Parameters	Comment
SO3000388D	Pacific Veneer	Chehalis River	Dissolved oxygen	Same comments as for Bay City Sort Yard
SO3001015D	Aberdeen Sawmill	Chehalis River	Dissolved oxygen	Same comments as for Bay City Sort Yard
SO3000456D	Aviation	Newaukum River	BOD, ammonia, dissolved oxygen, total phosphorous	1. Applicable TMDLs appear to include the "*Upper Chehalis River Basin Total Maximum Daily Load Submittal Report*" (October 1996), and the "*Revised Upper Chehalis River Basin Dissolved Oxygen Total Maximum Daily Load Submittal Report*" (March 2000). 2. Neither of these TMDLs establish WLA for IGSW permittees. No monitoring requirements are specified for ISWG permittees. 3. It appears the only WLAs established are for the City of Centralia POTW, the City of Chehalis POTW and the WestFarm Foods.
SO3002178D	Elma Veneer	Wildcat Creek	BOD, ammonia, dissolved oxygen, total phosphorous	1. Wildcat Creek is not identified as an impaired Chehalis River Mainstem segment in the "*Upper Chehalis River Basin Total Maximum Daily Load Submittal Report*" (October 1996), or the "*Revised Upper Chehalis River Basin Dissolved Oxygen Total Maximum Daily Load Submittal Report*" (March 2000). 2. Neither of these TMDLs establish WLA for IGSW permittees. No monitoring requirements are specified for ISWG permittees. 3. It appears the only WLAs established are for the City of Centralia POTW, the City of Chehalis POTW and the WestFarm Foods.

ATTACHMENT 1 (cont.) -- Comments on Appendices 4 and 5

Appendix 5

Permit ID	Facility	Water Body	Parameters	Comment
SO3001823D	Smith Island	Snohomish River	BOD, ammonia	1. The applicable TMDL is the "*Snohomish River Estuary Total Daily Maximum Load Submittal Report*" (August 1999). This TMDL does not establish any Waste Load Allocations for IGSW permittees. No monitoring requirements are specified for ISWG permittees.
SO3003828C	Snoqualmie	Snoqualmie River	BOD, ammonia	1. The applicable TMDL is the "*Snoqualmie River Total Daily Maximum Daily Load Study*," January 1994). 2. The TMDL Waste Load Allocations were apparently established only for the municipal wastewater treatment plants on the river. The Report indicates that WLAs only apply during the months of August, September and October. 3. No Waste Load Allocation was established for the Weyerhaeuser Snoqualmie discharge. On page 19 of the report the comment is made "Waste loads from Weyerhaeuser, Tokul Fish Hatchery and Carnation Farms were not assessed for the low flow period. The Weyerhaeuser Mill Pond does not normally discharge to the river during the low flow period , so its discharge is represented only by an insignificant place holding value loading assessment."

ATTACHMENT 1 (cont.) -- Comments on Appendices 4 and 5

Appendix 4

Permit ID	Facility	Water Body	Parameters	Comment
SO3000370D	Weyco Lumbermill (Raymond)	Willapa River	Dissolved oxygen	1. At the discharge location, the Willapa River is a Class A marine water. The appropriate dissolved oxygen water quality criteria is 6.0 mg/l, not 8.0 mg/l.